

1 THE HONORABLE BENJAMIN SETTLE
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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON AT TACOMA**

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10 JESUS CHAVEZ FLORES,
11 Plaintiff,
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13 v.
14 UNITED STATES IMMIGRATION
15 AND CUSTOMS ENFORCEMENT;
16 THOMAS D. HOMAN, Deputy
17 Director and Senior Official
18 Performing the Duties of the Director
19 of the U.S. Immigration and Customs
20 Enforcement; BRYAN WILCOX,
21 Director of the Seattle Field Office of
22 U.S. Immigration and Customs
23 Enforcement; WILLIAM
24 PENALOZA, Assistant Field Office
25 Director, Detention, Seattle Field
Office of U.S. Immigration and
Customs Enforcement; THE GEO
GROUP, INC., a Florida corporation;
LOWELL CLARK, Warden,
Northwest Detention Center,

Defendants.

Case No.: 3:18-cv-05139-BHS

DECLARATION OF CAPTAIN
LEROY PORTILLO

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1 I, Leroy Portillo, declare and state the following under oath subject to penalty of
2 perjury pursuant to the laws of the State of Washington:

3 1. I am over the age of 18 and competent to testify to the matters set forth in my
4 declaration. My declaration is based upon my personal knowledge, and my education, training
5 and experience.

6 2. I am a Captain at the Northwest Detention Center ("NWDC"). I was the officer in
7 command of the unit on February 8, 2018 when the disturbance that is the subject matter of this
8 case occurred. I was in direct contact with plaintiff whom I respectfully escorted out of the
9 housing unit where he was then examined by ICE - Public Health Service medical staff and
10 later returned to his housing unit in good health.

11 3. A true and correct copy of the Use of Force - After Action Review is attached at
12 **Exhibit A** to the Mell Declaration.

13 4. A true and correct copy of a photograph that depicts Mr. Chavez on February 8, 2018
14 after he left the unit with me and went to medical is attached as **Exhibit D** to the Mell
15 Declaration. As is indicated in the photograph, I did not observe any cuts, swelling, or
16 bruising. The condition of Mr. Chavez' eye was unremarkable.

17 5. A true and correct copy of the statement of Detention Officer Gordon is attached as
18 **Exhibit B** to the Mell Declaration.

19 6. I responded to the unit when D/O Gordon notified Lt. Snyder that Mr. Chavez had
20 announced to the unit that the detainees were not to eat lunch. My objective was to have
21 Mr. Chavez accompany me outside the unit to separate him from the other detainees who may
22 otherwise choose to eat.

1 7. When I arrived at the unit, Mr. Chavez was on the top tier. I waived to him to join me.

2 He came down to the main floor with other detainees accompanying him.

3 8. I invited him to speak to me outside the unit and he refused. Another detainee said he
4 too had something to say, so I invited them both to come out of the unit to speak to me and
5 Lt. Snyder. They refused. Other detainees joined in resistance.

6 9. The situation became a security concern when Mr. Chavez and another detainee Mr.
7 Orozco-Cadenas urged the other detainees to disregard Lt. Snyder's instructions to bunk up and
8 Detainee Orozco-Cadenas yelled out to the detainee population to not bunk up and block the
9 door. A large number of detainees surrounded us and stood in front of the door blocking the
10 Exit. Lt. Snyder and I gave directives to the detainees to move away from the door. The
11 detainees refused.

12 10. At this point D/O Gordon initiated an IMS (Incident Management System) and asked
13 for extra assistance. Other detention officers entered the unit. The first officer to enter the unit
14 was D/O Beardsley. When I came back in, Beardsley was ushering the detainees away from
15 the exit and struggling with one who was resisting. I saw Mr. Chavez holding his eye as if he
16 had been poked. I see on the video D/O Beardsley extend his arm to direct detainees away
17 from the exit in close time and proximity to detainee Chavez putting his hand over his eye. I
18 see this at minute marker 2:09:33 - 34. D/O Beardsley is the one wearing suspenders.

19 11. I asked D/O Beardsley to leave the unit, which he did uneventfully. Then I escorted
20 Mr. Chavez out of the unit to medical without restraints.

21 12. A true and correct copy of video and still shots depicting the disturbance is attached as

22 **Exhibit E** to the Mell Declaration.

1 13. ICE medical cleared Mr. Chavez to return to the unit in good health.

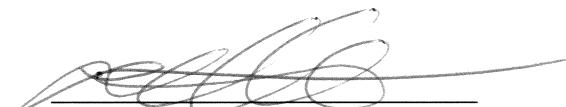
2 14. Tacoma Police Department responded to the facility on February 14, 2018 to
3 investigate. Attached is a true and correct copy of the Tacoma Police Department Report at
4 **Exhibit F** to the Mell Declaration. A TPD officer interviewed Mr. Chavez with a Spanish
5 speaking interpreter Officer Yuniel Tacoronte, and Lt. Mike Snyder. Mr. Chavez' pleadings are
6 not consistent with his statement to the Tacoma Police Department. Attached is a true and
7 correct copy of the translation of his statement at **Exhibit F** to the Mell Declaration. My
8 translation of his statement differs from the translator's word choice in that I did not say
9 "hook" and "crook." I said to Mr. Chavez and Mr. Orozco-Cadenas you come with us either on
10 good terms or bad terms.

14 15. Based upon my briefing and review of the later contraband incident on the 10th, D/O
15 Gordon conducted a search in the housing unit finding no contraband in Mr. Chavez' bunk and
16 finding fermented fruit and liquid in his property box. True and correct copies of the property
17 search reports of Mr. Chavez' locker is attached at **Exhibit H** to the Mell Declaration.
18 Mr. Chavez only placed into the record the search report for his bed at Dkt. 2-1 at 13, which is
19 misleading. When the contraband was found, Mr. Chavez moved to segregation from February
20 10th to March 1. Attached is a true and correct copy of the segregation order for detainee
21 Chavez at **Exhibit I** to the Mell Declaration. D/O Gordon conducted an appropriate search in
22 conformance with standard protocols that require detention officers to conduct daily searches.

26 16. On February 21, 2018 during my walk through the segregation unit and when
27 checking on Mr. Chavez, I witnessed Mr. Chavez continuously scratching the inside of his left
28 eye with his left index finger to aggravate it.

1 Dated this 20th day of March, 2018 at Fircrest, WA.
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Leroy Portillo, Captain at NWDC

III BRANCHES LAW, PLLC
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Fircrest, WA 98466
253-566-2510 ph

CERTIFICATE OF SERVICE

I, Joseph Fonseca, hereby certify as follows:

I am over the age of 18, a resident of Pierce County, and not a party to the above action.

On March 21, 2018, I electronically filed the above Declaration of Captain Leroy Portillo, with the Clerk of the Court using the CM/ECF system and served via Email to the following:

| ATTORNEY NAME & ADDRESS | METHOD OF DELIVERY |
|--|---------------------------|
| <p>Emily Chiang, WSBA No. 50517 Eunice Hyunhye Cho, GA Bar No. 632669 American Civil Liberties Union of Washington Foundation 901 Fifth Avenue, Suite 630 Seattle, WA 98164 (206)-624-2184 echiang@aclu-wa.org echo@aclu-wa.org</p> | <p>■ CM/ECF E-Service</p> |
| <p>Sarah K. Morehead, WSBA No. 29680 Assistant United States Attorney United States Attorney's Office 700 Stewart Street, Suite 5220 Seattle, WA 98101 (206)-553-7970 sarah.morehead@usdol.gov</p> | |

I certify under penalty of perjury under the laws of the State of Washington that the above information is true and correct

DATED this 21st day of March, 2018 at Fircrest, Washington.


Joseph Fonseca, Paralegal